

AMENDED IN ASSEMBLY APRIL 21, 2016

AMENDED IN ASSEMBLY APRIL 12, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2439

Introduced by Assembly Member Nazarian

February 19, 2016

An act to add Section 120992 to the Health and Safety Code, relating to HIV testing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2439, as amended, Nazarian. HIV testing.

Existing law requires that every patient who has blood drawn at a primary care clinic, as defined, and who has consented to the test to be offered an HIV test that is consistent with the United States Preventive Services Task Force recommendations for screening for HIV infection. Existing law specifies the manner in which the results of that test are provided.

This bill would create a pilot project, administered by the State Department of Public Health, to assess and make recommendations regarding the effectiveness of the routine offering of an HIV test in the emergency department of a hospital. The bill would require the department to select 4 hospitals, as provided, that have emergency departments to *voluntarily* participate in the pilot project. The bill would require the participating hospitals to offer an HIV test to any patient in the hospital emergency department, as provided, to collect specified information, and to report the information to the department. The pilot project would commence on March 1, 2017, and end on February 28, 2019. The bill would require the department, by July 1, 2019, to

complete a report to the Legislature on the findings of the 4 hospitals in the pilot project and make recommendations about routine HIV testing in hospital emergency departments.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 120992 is added to the Health and Safety
- 2 Code, to read:
- 3 120992. (a) There is hereby created a pilot project, to be
- 4 administered by the department, in order to assess and make
- 5 recommendations regarding the effectiveness of the routine offering
- 6 of an HIV test in the emergency department of a hospital.
- 7 (b) The department shall select four hospitals that have
- 8 emergency departments to *voluntarily* participate in the pilot
- 9 project.
- 10 (1) Two of the hospitals shall be selected from large urban areas.
- 11 (2) One hospital shall be selected from a small urban or suburban
- 12 area.
- 13 (3) One hospital shall be selected from a rural area.
- 14 (c) Each hospital in the pilot project shall offer an HIV test to
- 15 any patient in the hospital emergency department who has
- 16 consented to the HIV test pursuant to Section 120990. The
- 17 emergency department shall comply with subdivision (h) of Section
- 18 120990 and may choose to comply either by using emergency
- 19 department or other hospital personnel or engaging the services
- 20 of an HIV organization that has experience in prevention
- 21 counseling for persons at risk for HIV.
- 22 (d) A hospital in the pilot project shall not offer a test to any
- 23 person who is being treated for a life-threatening emergency or
- 24 who lacks the capacity to consent to an HIV test.
- 25 (e) A hospital in the pilot project shall ~~comply with Section~~
- 26 ~~6926 of the Family Code when testing a minor 12 years of age or~~
- 27 ~~older.~~ *offer HIV tests to individuals between 15 and 65 years of*
- 28 *age, inclusive, pursuant to the United States Preventive Services*
- 29 *Task Force recommendations.*
- 30 (f) A hospital in the pilot project shall be authorized to charge
- 31 a patient for the cost of the HIV testing.

1 (g) A hospital in the pilot project shall be directed by the
2 department to collect and report data on the following topics:

3 (1) The frequency of HIV test offers.

4 (2) The frequency of consent or nonconsent to an HIV test and
5 any reasons given by the patient for the consent or the nonconsent.

6 (3) The time taken to offer an HIV test and secure consent from
7 a patient and the time taken to provide information and counseling
8 pursuant to subdivision (h) of Section 120990.

9 (4) The aggregate HIV positivity rate.

10 (5) The frequency with which patients agree to participate in a
11 session to receive information and counseling pursuant to
12 subdivision (h) of Section 120990 and the reasons that patients
13 give for refusing to participate.

14 (6) The frequency of patients leaving the emergency department
15 without receiving their test results.

16 (h) A hospital in the pilot project shall provide information to
17 the department regarding its practices and protocols for
18 implementing the offer of an HIV test and the required followup
19 to the test, as well as an assessment of the effectiveness of those
20 practices and protocols.

21 (i) (1) The pilot project shall commence on March 1, 2017, and
22 end on February 28, 2019.

23 (2) By July 1, 2019, the department shall complete a report to
24 the Legislature on the findings of the four hospitals in the pilot
25 project and make recommendations about routine HIV testing in
26 hospital emergency departments. In preparing the report to the
27 Legislature, the department shall solicit input from a broad range
28 of HIV testing and hospital stakeholders.

29 (j) (1) The requirement for submitting a report imposed under
30 paragraph (2) of subdivision (i) is inoperative on July 1, 2023,
31 pursuant to Section 10231.5 of the Government Code.

32 (2) A report submitted pursuant to paragraph (2) of subdivision
33 (i) shall be submitted in compliance with Section 9795 of the
34 Government Code.

35 (k) For purposes of this section, “hospital” means a general
36 acute care hospital as defined in subdivision (a) of Section 1250.